

**IN THE UNITED STATES DISTRICT COURT
OF THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

WHITNEY A. HENDERSON

v.

**MARK T. ESPER, SECRETARY OF
THE ARMY, ET AL.**

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No. 5:18CV116-RWS-CMC

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Caroline M. Craven pursuant to 28 U.S.C. § 636. On June 19, 2019, the Magistrate Judge issued a Report and Recommendation, recommending Defendants' Motion to Dismiss (Docket No. 10) be granted and Plaintiff's above-entitled and numbered cause of action be dismissed with prejudice. No objections to the Report and Recommendation have been filed.¹

The Court has carefully reviewed the Report and Recommendation and finds no error in its findings. Plaintiff has not met his burden to demonstrate that he timely contacted an agency EEO counselor within 45 days of his effective termination. The Court finds no error in the Magistrate Judge's finding that equitable tolling does not apply in this case. Accordingly, the Court agrees with the Magistrate Judge that any amendment would be futile.


The Court therefore **ADOPTS** the Report and Recommendation as the findings and conclusions of this Court. The Court finds Plaintiff's Title VII claims should be dismissed as he has failed to state a claim on which relief may be granted. Accordingly, it is hereby

ORDERED that Defendants' Motion to Dismiss (Docket No. 10) is **GRANTED**. It is further

¹ The Clerk of the Court forwarded a copy of the Report and Recommendation to Plaintiff Whitney A. Henderson ("Plaintiff") via certified mail. As of July 15, 2019, Plaintiff has not acknowledged receipt of the Report and Recommendation.

ORDERED that Plaintiff's above-entitled and numbered cause of action is **DISMISSED**
WITH PREJUDICE.

So ORDERED and SIGNED this 23rd day of July, 2019.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE